



IBC

International Bancshares
Corporation

July 1, 2015

Via <http://www.federalreserve.gov> and
email at regs.comments@federalreserve.gov

Robert deV. Frierson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Re: Federal Reserve System Docket No. OP-1515; Enhancements to Federal Reserve Bank
Same-Day ACH Service; Request for Comment

Dear Mr. deV. Frierson:

The following comments are submitted on behalf of International Bancshares Corporation ("IBC"), a multi-bank financial holding company headquartered in Laredo, Texas. IBC holds four state nonmember banks serving Texas and Oklahoma with each bank having less than \$10 billion in assets. With over \$12 billion in total consolidated assets, IBC is the largest Hispanic-controlled financial holding company in the continental United States. IBC is a publicly-traded bank holding company. We appreciate the opportunity to comment on the Federal Reserve Board's Proposal.

I. Overview of Proposal

On May 21, 2015, the Federal Reserve Board ("Board") requested comment on proposed enhancements to the Federal Reserve Banks' current same-day automated clearing house ("ACH") service in order to correspond to recently adopted amendments to NACHA's ACH operating rules ("Proposal"). On May 19, 2015, NACHA, announced that its voting members had approved amendments to the ACH operating rules to allow originating depository financial institutions ("ODFIs") to send same-day ACH transactions to accounts held at any receiving depository financial institutions ("RDFIs"). Unlike the Reserve Banks' current optional FedACH® SameDay Service, NACHA's amended ACH operating rules require all RDFIs to participate in the same-day service, and ODFIs to pay a fee to RDFIs for each same-day ACH forward transaction.¹ The Board is requesting comment on the Reserve Banks' adoption of an enhanced same-day ACH service with mandatory participation of RDFIs and an interbank fee (5.2 cents per forward transaction).

II. Comments

A. Mandatory Receipt of ACH Transactions for all RDFIs

The Board specifically requests comment on making receipt of same-day ACH Transactions mandatory for all RDFIs.

¹ The Board proposes to adopt this enhanced same-day ACH service by incorporating NACHA's amended ACH operating rules into Operating Circular 4, which governs Reserve Banks' ACH service.

We agree with the Board that a same-day ACH service offers clear public benefits. A ubiquitous same-day ACH service would enhance the efficiency and integrity of the ACH network and the broader U.S. payment system, consistent with the strategic goals identified in the Federal Reserve's Strategies for Improving the U.S. Payment System paper.² Additionally, when considering its own proposal, NACHA identified a number of use cases that would benefit from a ubiquitous same-day ACH service, including faster person-to-person payments, expedited bill payments, enhanced e-commerce transactions with faster collection of funds and release of goods, accelerated check collection to decrease non-sufficient funds returns, and same-day payroll payments. To realize the benefits of same-day transactions, however, the service must achieve ubiquity among depository institutions in order to reach any banked receiver and provide a useful service to originators. Without adoption by the Federal Reserve Banks, a significant number of depository institutions receiving ACH services from the Reserve Banks may not participate.

Further, absent the ability to reach any RDFI in the ACH network, it may not be possible to implement an effective same-day ACH service and any corresponding public benefits would be limited. We agree with the Board that the private sector cannot be expected to provide the service alone with reasonable effectiveness, scope, or equity.

The Board states in its Proposal that the service may have a significant longer-run effect on the nation's payment system through increased efficiency and integrity of the ACH network. We agree. Currently, most ACH payments are settled on the next business day. There are many uses of ACH payments, however, for which businesses and consumers could benefit from same-day processing. The Board's adoption of the Proposal would enable ACH Originators that desire same-day processing the option to send same-day ACH transactions to accounts at any RDFI.

B. Interbank Fee

In the proposal, the Board requested comment on whether the interbank fee included in NACHA's amended operating rules, 5.2 cents per forward transaction, equitably reapportions the initial implementation costs and ongoing operating costs between ODFIs and RDFIs.

We note that NACHA's comprehensive economic analysis which serves as the basis for the interbank fee included a review of likely use cases and same-day volumes, as well as a comprehensive cost analysis to determine implementation and on-going costs for financial institutions of all sizes.³ NACHA's research concluded that an interbank fee was the optimal method to ensure ubiquity of the service, and absent a fee, RDFIs would have no likelihood to recover the costs to implement and operate the proposed same-day ACH service.⁴

² "Strategies for Improving the U.S. Payment System," (Federal Reserve System, January), fedpaymentsimprovement.org/wp-content/uploads/strategies-improving-us-payment-system.pdf.

³ NACHA'S Request for Comment, Same Day ACH, <https://www.nacha.org/rules/request-comment-same-day-ach-move-payments-faster>.

⁴ Id.

IBC agrees with the Boards recognition that both ODFIs and RDFIs will incur significant costs relating to needed investments in systems and operations to facilitate same-day ACH transactions. ODFIs, which would derive the most value from faster ACH clearing and settlement, have the choice of offering a same-day ACH service to originating customers and may be able to offset their investment through enhanced ACH offerings such as emergency bill pay and higher fees for same-day processing. RDFIs, in contrast, would not be able to refuse receipt of same-day ACH transactions under a mandatory participation requirement and would likely incur same-day settlement costs that they are unable to fully offset through incremental revenue. As a result, RDFIs would lack an effective method of offsetting the investment and ongoing costs of same-day ACH settlement if they are not permitted to receive fees from ODFIs.

In light of this potential negative effect on RDFIs, allowing RDFIs to offset implementation costs associated with the up-front investments of building and operating new ACH services and ongoing operating costs is necessary for accepting, posting, and making funds available from same-day transactions. Additionally, IBC believes the Board's proposed 5.2 cents per forward transaction is an absolute necessity to achieving a ubiquitous same-day ACH service. Without the interbank fee, implementation of same-day ACH would not be economically viable for RDFIs and, to the extent that was the case, it would not be possible to achieve ubiquitous, same day service. While same-day ACH is strategic for both the network and for individual financial institutions, RDFIs still need to be able to recover the costs of building and operating new ACH services. The proposed interbank fee is designed to address this imbalance between ODFIs and RDFIs and, as acknowledged above, is the result of a comprehensive economic study evaluating investment and business requirements.

IBC believes that same day ACH can only be implemented successfully if both ODFIs and RDFIs see a rational business justification for making the required investments. We believe that opportunity costs and a risk-adjusted rate of return are both essential elements of a business case that financial institutions need to address in determining whether to invest in new product offerings. In particular, opportunity costs and risk-adjusted rate of return are standard considerations for capital projects, especially the introduction of new products. IBC believes it is unrealistic to suggest that RDFIs would not consider these factors as they evaluate the Proposal, including the mandate for RDFI participation. Indeed, we believe that a financial institution that did not include these considerations in its capital approval process would face safety and soundness scrutiny from its prudential regulator.

No commercial enterprise can be expected to make an investment without factoring in the cost of capital. It is not economically rational, is against the interests of shareholders, and for insured financial institutions would potentially be an unsafe and unsound practice. We also note that under the Monetary Control Act and its pricing principles, the Federal Reserve Banks are required to set pricing for their payment products based on their actual costs plus a "Private Sector Adjustment Factor" that requires the Banks to take into consideration, among other things, a private sector competitor's taxes and cost of capital.

Equally important, the Board's Proposal will be fair to originators and ODFIs as they will be able to choose whether to use same day clearing and settlement based on their customers' needs.

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If they choose to take advantage of faster processing and settlement, the interbank fee will apply to their same day items. However, originators and ODFIs will still be able to clear and settle ACH items using current next day capabilities and similar to today, no interbank fee will apply to such items.

IBC strongly supports the cost-based, commercially-reasonable rate of return approach that NACHA used to determine the interbank fee. These economic controls are explicit in the rule, allowing for downward pressure on the fee. In particular, the fee would be subject to re-evaluation at defined intervals under criteria that tie the amount of the fee to a cost recovery standard. This methodology is a conservative and practical approach to cost-recovery. We believe the Proposal will not be adopted by RDFIs if it does not make business sense for RDFIs, as they would be mandated to accept same-day ACH entries and thereby assume cost of enabling same day settlement without any realistic means to recover those costs.

Based on the foregoing, we urge the Board to adopt its Proposal relating to enhanced same-day ACH service with mandatory participation of RDFIs and an interbank fee of no less than 5.2 cents per forward transaction.

Thank you for your consideration.

Respectfully,



Imelda Navarro
Chief Financial Officer